

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

**EQT PRODUCTION COMPANY,**

**Plaintiff,**

**v.**

**Civil Action No. 1:18-cv-72**

**Judge Irene M. Keeley**

**AUSTIN CAPERTON, in his official capacity as  
Secretary of the West Virginia Department of  
Environmental Protection,**

**Defendant.**

**JOINT REPORT OF PARTIES' PLANNING MEETING**

1. Pursuant to Federal Rule of Civil Procedure 26(f), this Court's order dated April 23, 2018 (ECF No. 6), and Local Rule 16.01(b), the parties held a telephonic conference on June 1, 2018. The following counsel participated:

Katherine M. Turner  
Eden Schiffmann  
Williams & Connolly LLP  
*Counsel for Plaintiff*

Timothy M. Miller  
Babst, Calland, Clements & Zomnir, P.C.  
*Counsel for Plaintiff*

J. Zak Ritchie  
Bailey & Glasser, LLP  
*Counsel for Defendant*

The parties held a follow-up telephonic conference on June 11, 2018. The following counsel participated in the second conference:

Katherine M. Turner  
Matthew J. Greer  
Williams & Connolly LLP  
*Counsel for Plaintiff*

Timothy M. Miller  
Babst, Calland, Clements & Zomnir, P.C.  
*Counsel for Plaintiff*

Benjamin L. Bailey  
Michael B. Hissam  
J. Zak Ritchie  
Raymond S. Franks II  
Bailey & Glasser, LLP  
*Counsel for Defendant*

2. **Initial Disclosures.** Pursuant to this Court's First Order and Notice Regarding Discovery and Scheduling dated April 23, 2018 (ECF No. 6), the parties' initial discovery disclosures are due on July 13, 2018. Given the revised briefing schedule on Defendant's Motion to Dismiss (ECF No. 26), the parties agree to defer the exchange of information required by Federal Rule of Civil Procedure 26(a)(1) until two weeks after entry of an order adjudicating the Motion to Dismiss (ECF No. 17).

3. **Discovery Plan.**

- (a) Following the Court's adjudication of Defendant's Motion to Dismiss, the parties intend to meet and confer regarding the scope and timing of any discovery.
- (b) Electronic information will be transferred in a form mutually agreeable to the parties.
- (c) In the event that production or discovery of confidential, proprietary, or privileged information is requested in discovery or as part of trial preparation, the parties will confer, pursuant to Local Rule 26.04(b), to attempt to arrive at an arrangement or proposed protective order. If the parties cannot agree, the party seeking protection shall apply to the Court

via appropriate motion practice. The party asserting privilege shall comply with Local Rule 26.04(a)(2).

- (d) Discovery may commence upon entry of an order adjudicating Defendant's Motion to Dismiss.
- (e) Discovery completion date: September 6, 2019
- (f) The parties agree to abide by the maximum number of, and response time for, interrogatories to each party as set by Federal Rule of Civil Procedure 33.
- (g) The parties adopt the time limit for depositions as set forth in Federal Rule of Civil Procedure 30(d).
- (h) Disclosure of expert witnesses, with reports as required by Federal Rule of Civil Procedure 26(a)(2)(B), shall be conducted as follows:
  - Party with burden: April 5, 2019
  - Party without burden: May 10, 2019
  - Rebuttal expert disclosures: May 31, 2019
- (i) Discovery shall be supplemented in accordance with Federal Rule of Civil Procedure 26(e).
- (j) The parties are not aware of any other orders that should be issued at this time.

4. **Local Rule 16.01(b) Issues.**

- (a) The parties agree that this is not a complex case and that it does not require individualized monitoring.
- (b) The parties do not agree on any disputed facts at this time.

- (c) The parties do not consent to trial by a magistrate judge.
- (d) The parties do not believe that this case can be resolved through alternative dispute resolution.

5. **Pre-Trial Timing.**

- (a) Final date for all parties to amend pleadings, join new parties and/or file third-party claims: January 4, 2019
- (b) Proposed dispositive motions dates:
  - Motions filed by: October 4, 2019
  - Responses filed by: November 1, 2019
  - Replies filed by: November 22, 2019
- (c) The parties reserve the right to file dispositive motions earlier than the cutoff date set forth above and, if filed earlier, the response and reply times shall be controlled by Local Rule 7.02.
- (d) The date for submission of Rule 26(a)(3) witness lists, designations of witnesses whose testimony will be presented by deposition, and exhibit lists shall be thirty (30) days before trial.
- (e) Objections to Rule 26(a)(3) submissions shall be filed fourteen (14) days before trial.
- (f) Expert Examinations to be completed: N/A
- (g) Jury Instructions, Voir Dire, and Verdict Forms to be filed: To be set after adjudication of the motion to dismiss.
- (h) Motions in limine to be filed: Twenty-one (21) days before Pretrial Conference.

- (i) Intermediate Pre-Trial Conference: Not requested at this time.
- (j) Suggested Pre-Trial Conference Date: March 2020
- (k) Joint Final Pre-Trial Conference Order: April 2020
- (l) Suggested Trial Date: April 2020

Dated June 19, 2018

Respectfully submitted,

**EQT PRODUCTION COMPANY,**

By Counsel:

BABST CALLAND CLEMENTS and ZOMNIR,  
P.C.

OF COUNSEL:

**WILLIAMS & CONNOLLY LLP**

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By: /s/ Timothy M. Miller

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By: /s/ J. Zak Ritchie

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*Attorneys for Defendant Austin Caperton*

**CERTIFICATE OF SERVICE**

I, Timothy M. Miller, do hereby certify that on June 19, 2018, I electronically filed the foregoing **“Joint Report of Parties’ Planning Meeting”** with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following CM/ECF participants:

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